

REMARKS

The Office Action dated November 4, 2004 has been carefully reviewed. Claims 1-4, 9, 10, 15, 17, 18, 20, 21, 23, 24, 27, 29-31, and 35-37 are pending in this patent application. By this amendment, 1-4, 9, 10, 15, 17, 18, 20, 21, 23, 24, 27, 29-31, and 35-37 have been canceled, and claims 42-68 have been added. Reconsideration of this application, as amended, is respectfully requested.

Allowable Subject Matter

Claims 4, 17-18, 20-21, and 31 were indicated as being allowable if rewritten in independent form and to include all of the limitations of the base claim and any intervening claim. However, these claims were canceled, and Applicants have added new claims to more clearly define their invention.

Double Patenting Rejection

Claims 1, 15, 17, 27, 29 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 16, 29 of U.S. Patent No. 6,722,735. A Terminal disclaimer is submitted herewith in order to obviate this rejection.

35 U.S.C. §§ 102 and 103 Rejections

Claims 1-3, 9, 10, 15, 23, 24, 27, 29-30, and 35-37 were rejected under either 35 U.S.C. §§ 102 or 103 over one or more of the following references: Ambasz (U.S. Patent No. 4,046,422), Matte (U.S. Patent No. 5,076,646), and Perry (U.S. Patent No. 5,338,094). These claims have been canceled, and Applicants have added new claims to more clearly define their invention.

Newly Added Claims 42-68

Newly added claims 42-68 recite novel and nonobvious limitations. Thus, each of claims 42-68 is allowable over the cited art. For example, among other limitations, new claim 42 recites the following:

during movement of said intermediate portion from said second configuration to said first configuration, said immediate portion causes (i) said seat back to pivot from said second seat back position to said first seat back position, and (ii) said seat bottom to move from said second seat bottom position to said first seat bottom position.

In contrast, the chair disclosed in Ambasz (U.S. Patent No. 4,046,422) does not possess such claimed features. Indeed, movement of the flexible tubing 119 of Ambasz (equated in the last Office Action with the claimed “intermediate portion”) does not cause the back support 22 to pivot at all. Rather, to cause pivoting movement of the back support 22, Ambasz provides a spring or other type of resilient member stowed within each of the lateral tubular L-shaped side frame members. (See, e.g., spring 82 - Figs. 4A and 4B, spring 92 - Fig. 6, resilient compressible body 108 - Figs. 7A, 7B, resilient rod 110 - Fig. 8). It is axiomatic that anticipation of a claim under 35 U.S.C. § 102 is proper only if the prior art

reference discloses each and every element of the claim. Since Ambasz does not disclose each and every element of Applicants' new claim 42, Ambasz does not anticipate Applicants' claim 42.

As another example, among other limitations, new claim 55 recites the following:

wherein pivoting of said seat back from said first seat back position to said second seat back position causes said seat bottom to slide along said bearing surface from a first seat bottom position to a second seat bottom position.

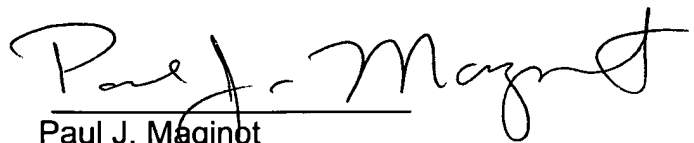
In contrast, Ambasz states that its chair comprises “a back support 22 that tilts, *independently of the position of the seat [20]*, between a relatively upright position as shown in solid lines in FIG. 1 and an inclined position as shown in phantom lines in FIG. 1 and in solid lines in FIG. 2.” (See Ambasz at column 4, lines 4-14, especially lines 9-14 - Emphasis added.) Consequently, pivoting of Ambasz' back support 22 clearly does not cause its seat 20 to move, much less in the manner recited in new claim 55. It is axiomatic that anticipation of a claim under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim. Since Ambasz does not disclose each and every element of Applicants' new claim 55, Ambasz does not anticipate Applicants' claim 55.

Conclusion

In view of the foregoing amendments and remarks, it is submitted that this application is in condition for allowance. Action to that end is hereby solicited.

Respectfully submitted,

MAGINOT, MOORE & BECK

A handwritten signature in cursive script, reading "Paul J. Maginot". The signature is written in dark ink and is positioned above a horizontal line.

Paul J. Maginot
Attorney for Applicants
Registration No. 34,984

February 4, 2005

Maginot, Moore & Beck
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis, Indiana 46204-5115
Phone: (317) 638-2922
Fax: (317) 638-2139